

**Before the
Federal Communications Commission
Washington, D.C. 20554**

In the Matter of)	
)	
Global Crossing Telecommunications, Inc.)	IC No. 05-S89650
)	
Complaint Regarding)	
Unauthorized Change of)	
Subscriber's Telecommunications Carrier)	

ORDER ON RECONSIDERATION

Adopted: July 12, 2007

Released: July 13, 2007

By the Chief, Consumer & Governmental Affairs Bureau:

1. In this Order, we deny a Petition for Reconsideration filed by Global Crossing Telecommunications, Inc. (Global) asking us to reverse a finding that Global changed Complainant's telecommunications service provider without obtaining proper authorization and verification in violation of the Commission's rules.¹ On reconsideration, we affirm that Global's actions violated the Commission's carrier change rules.²

I. BACKGROUND

2. In December 1998, the Commission adopted rules prohibiting the practice of "slamming," the submission or execution of an unauthorized change in a subscriber's selection of a provider of telephone exchange service or telephone toll service.³ The rules were also designed to take the profit out of slamming.⁴ The Commission applied the rules to all wireline carriers,⁵ and modified its existing requirements for the authorization and verification of preferred carrier changes.⁶

3. The rules require that a submitting carrier receive individual subscriber consent before a carrier change may occur.⁷ Specifically, a carrier must: (1) obtain the subscriber's written or

¹ See Petition for Reconsideration of Global Crossing Telecommunications, Inc. (filed Nov. 1, 2006) (*Petition*) seeking reconsideration of *Global Crossing Telecommunications, Inc.*, 21 FCC Rcd 11215 (2006) (*Division Order*), issued by the Consumer Policy Division (Division), Consumer & Governmental Affairs Bureau (CGB).

² See 47 C.F.R. §§ 64.1100 – 64.1190.

³ See *id.*; see also 47 U.S.C. § 258(a).

⁴ See *Implementation of the Subscriber Carrier Selection Changes Provisions of the Telecommunications Act of 1996; Policies and Rules Concerning Unauthorized Changes of Consumers' Long Distance Carriers*, CC Docket No. 94-129, Second Report and Order and Further Notice of Proposed Rulemaking, 14 FCC Rcd 1508, 1512, para. 4 (1998) (*Section 258 Order*). See also *id.* at 1518-19, para. 13.

⁵ See *id.* at 1560, para. 85. CMRS providers were exempted from the verification requirements. See *id.*

⁶ See *id.* at 1549, para. 66.

⁷ See 47 C.F.R. § 64.1120; see also 47 U.S.C. § 258(a) (barring carriers from changing a customer's preferred local or long distance carrier without first complying with one of the Commission's verification procedures).

electronically signed authorization; (2) obtain confirmation from the subscriber via a toll-free number provided exclusively for the purpose of confirming orders electronically; or (3) utilize an independent third party to verify the subscriber's order.⁸

4. The Commission also adopted liability rules for carriers that engage in slamming.⁹ If the subscriber has not already paid charges to the unauthorized carrier, the subscriber is absolved of liability for charges imposed by the unauthorized carrier for service provided during the first 30 days after the unauthorized change.¹⁰ Where the subscriber has paid charges to the unauthorized carrier, the unauthorized carrier must pay 150% of those charges to the authorized carrier, and the authorized carrier must refund or credit to the subscriber 50% of all charges paid by the subscriber to the unauthorized carrier.¹¹

5. The Commission received a complaint on June 30, 2005, alleging that Complainant's telecommunications service provider had been changed from its authorized carrier, NECC Telecom, Inc. (NECC), to ACN Communications Services, Inc. (ACN) without Complainant's authorization.¹² Pursuant to Sections 1.719 and 64.1150 of the Commission's rules,¹³ the Division notified ACN of the complaint.¹⁴ In response, ACN stated that it did not initiate the change in service but that the account was switched to ACN "via a self pic."¹⁵ Based on ACN's response, the Division notified Verizon (Complainant's local exchange carrier (LEC)) of the complaint.¹⁶ In response, Verizon provided a history of Complainant's service changes and noted that Global, ACN's facilities-based underlying carrier, had requested the switch.¹⁷ The Division wrote to Global concerning the complaint "to confirm that it had not mistakenly changed Complainant's interLATA service to ACN."¹⁸ Global responded that it received a

⁸ See 47 C.F.R. § 64.1120(c). Section 64.1130 details the requirements for letter of agency form and content for written or electronically signed authorizations. 47 C.F.R. § 64.1130.

⁹ See 47 C.F.R. §§ 64.1140, 64.1160-70.

¹⁰ See 47 C.F.R. §§ 64.1140, 64.1160 (any charges imposed by the unauthorized carrier on the subscriber for service provided after this 30-day period shall be paid by the subscriber to the authorized carrier at the rates the subscriber was paying to the authorized carrier at the time of the unauthorized change).

¹¹ See 47 C.F.R. §§ 64.1140, 64.1170.

¹² Informal Complaint No. IC 05-S89650, filed June 30, 2005.

¹³ 47 C.F.R. § 1.719 (Commission procedure for informal complaints filed pursuant to Section 258 of the Act); 47 C.F.R. § 64.1150 (procedures for resolution of unauthorized changes in preferred carrier).

¹⁴ See Notice of Informal Complaint No. IC 05-S89650 to ACN from the Deputy Chief, Division, CGB, dated July 22, 2005.

¹⁵ ACN's Response to Informal Complaint No. IC 05-S89650, received August 10, 2005. We note that "PIC" is an abbreviation for "preferred interexchange carrier."

¹⁶ See Notice of Informal Complaint No. IC 05-S89650 to Verizon from the Deputy Chief, Division, CGB, dated May 19, 2006.

¹⁷ Verizon's Response to Informal Complaint No. IC 05-S89650, received June 20, 2006.

¹⁸ *Division Order* at 21 FCC Rcd 11217. See Letter Re: [Complainant's name and telephone number] 05-S89650, to Global from the Deputy Chief, Division, CGB, dated August 30, 2005 (*First Division Letter*). This letter, in relevant part, stated:

request from Complainant's LEC on September 8, 2004, to change Complainant's service and to add Complainant's service to ACN's wholesale account. It emphasized that Complainant's service was "... for local toll service only."¹⁹ The Division determined that Global failed to respond to the material issue of the complaint, namely, the unauthorized change of Complainant's interLATA service and, therefore, found that Global violated the Commission's carrier change rules.²⁰ Global seeks reconsideration of the *Division Order*.

II. DISCUSSION

6. Based on the record before us, we affirm the *Division Order* and deny the *Petition*. As discussed below, we determine that there was a violation of the Commission's carrier change rules. The evidence indicates that, notwithstanding Global's assertions to the contrary, Global was responsible for the switch of Complainant's interLATA service. Further, as discussed below, Global provides no evidence that this switch was made with appropriate authorization.

7. We agree with the Division that Global's initial response to the *First Division Letter* was non-responsive. In its *Petition*, Global states the Division asked Global to show how Complainant's services were switched to ACN, and Global responded to that inquiry.²¹ According to Global, the Division did not ask specifically about Complainant's interLATA services or how Complainant's services were switched generally.²² Moreover, Global contends the Division did not provide it with a copy of the complaint, and that correspondence from the Division was more in the nature of an inquiry than an informal complaint.²³ Global claims it could not have known that the material issue of the complaint related to Complainant's interLATA service, that it could not infer such from the *First Division Letter*, and that the Division should have clarified its inquiry or requested further information if it believed

We received a response for this complaint from ACN [] and information provided to us by Verizon (LEC) []. Based upon the information that was provided to us by ACN and Verizon (LEC), further explanation is needed. Information provided by Verizon indicates that the change in the complainant's service may have resulted from actions by Global Crossing. We need evidence showing us how the services were switched to ACN.

¹⁹ See Global's Response to *First Division Letter*, received October 12, 2005 (*Original Response*). Specifically, Global indicated that:

On September 8, 2004, Global Crossing received a subscription order from Verizon to add [Complainant's telephone number] to ACN's wholesale account via the OBF-CARE process via the following transaction code:

'20-09' End User Selected AC through Provider-Change of Primary Interexchange Carrier:

The order specified the CIC to be '6112' (ACN) for local toll service only.

Id. (emphasis in original) We note that "CIC" is an abbreviation for "Carrier Identification Code."

²⁰ *Division Order* at 21 FCC Rcd 11217, para. 4; *see also* 47 C.F.R. § 64.1150(d).

²¹ *See Petition* at 3.

²² *Id.*

²³ *Id.* Global argues that, for the matter to be treated as an informal complaint against Global, the Division was required to serve a copy of Complainant's correspondence upon Global pursuant to 47 C.F.R. § 1.717. *See Petition* at 3 n.6.

Global's response was inadequate.²⁴

8. We disagree. The *First Division Letter* to Global sought information concerning services switched, specifying: "We need evidence showing us how the services were switched to ACN."²⁵ The request was not limited to information about only one service. Whether or not Global saw the complaint prior to its *Original Response*, Global, as ACN's facilities-based carrier, knew how the services (intraLATA service and interLATA service) were switched to ACN and failed to provide information to the Division about the change of interLATA service.

9. In addition, we believe the Division afforded Global sufficient opportunity to respond to the Division's inquiry. In light of Global's assertion that it never received a copy of the complaint, on March 5, 2007, the Division sent Global the following documentation: a copy of the complaint; Verizon's response to the complaint; and ACN's response to the complaint.²⁶ In its *Second Response*, Global stated that Complainant says he was billed by ACN (one of Global's resellers).²⁷ However, Global contends that it was merely the underlying carrier responsible for processing orders, not Complainant's presubscribed carrier, and that it enacted a PIC change order it received from Verizon to switch Complainant to ACN.²⁸ It asserts it "was the *executing* carrier [and] never became and never sought to become the telecommunications service provider for complainant."²⁹ Whether or not Global itself sought to become the telecommunications service provider for Complainant is not relevant to this matter; at issue in this proceeding is whether Global enacted an unauthorized change of interLATA service.

10. Based on the record before us, we conclude that the interLATA switch was initiated by Global, and that Global did not have authorization to make this change. In its *Second Response*, Global acknowledges that Complainant's interLATA service was switched to ACN and claims this switch was made pursuant to a request from Verizon.³⁰ Upon receipt of Global's *Second Response*, the Division sought clarification from Global as to whether Verizon's September 8, 2004, change request was for interLATA or intraLATA service and requested evidence supporting the type of service Global believed was involved in Verizon's request.³¹ Global responded by providing an expanded screen print for the

²⁴ See *Petition* at 3. We note that the *First Division Letter* stated "Attachment" at the end of that letter. It is the Division's practice to forward the slamming complaint, along with any responses the Division has received, when it seeks a response to a complaint from another carrier.

²⁵ *First Division Letter* at 1.

²⁶ See Letter to Michael J. Shortley, III, Esq., (Counsel for Global) from the Deputy Chief, Division, CGB, dated March 5, 2007 (*Second Division Letter*).

²⁷ Global's Response to Informal Complaint No. IC 05-S89650, received April 11, 2007 (*Second Response*).

²⁸ See *id.* at 1. Global also notes that ACN refunded the amounts in question, and Complainant appears to have been made whole.

²⁹ *Id.* at 1-2. Global claims the Notice of Informal Complaint "seems to misperceive Global's role" as the executing carrier by requesting information as if Global were instead the retail carrier. *Id.* at 1.

³⁰ In Global's *Second Response*, it mentions Complainant's calls to Russia. International calls are interLATA calls.

³¹ See electronic mail from Bert Weintraub, FCC, to Michael Shortley, dated May 4, 2007.

Customer Account Record Exchange (CARE) record for the transaction in question.³² A review of that submission does not support Global's position that Verizon initiated an interLATA change on behalf of Complainant. In fact, the CARE record does not show a request from *any* carrier to make an interLATA change to ACN's CIC code, 6112.³³ Because Global did not provide evidence that Verizon or any other carrier initiated the interLATA change, we conclude that Global initiated the interLATA change without authorization, thereby violating the Commission's carrier change rules.

III. ORDERING CLAUSES

11. Accordingly, IT IS ORDERED that, pursuant to Section 258 of the Communications Act of 1934, as amended, 47 U.S.C. § 258, and Sections 0.141, 0.361, 1.106 and 1.719 of the Commission's rules, 47 C.F.R. §§ 0.141, 0.361, 1.106, 1.719, the Petition for Reconsideration filed by Global on November 1, 2006, IS DENIED.

12. IT IS FURTHER ORDERED that this Order is effective UPON RELEASE.

FEDERAL COMMUNICATIONS COMMISSION

Catherine W. Seidel, Chief
Consumer & Governmental Affairs Bureau

³² See electronic mail from Diane Peters (Global's Director of Regulatory Affairs) to Bert Weintraub, FCC, dated May 9, 2007, and CARE screen print attachment. CARE records are used by many carriers to exchange customer account information.

³³ There are only two references to the ACN 6112 CIC code shown on Global's expanded CARE record, and both refer only to intraLATA service. The CARE record contains a column titled "PIC TYPE;" for each of the two lines associated with ACN's CIC Code 6112, the letter "A" is shown. Global later explained that a PIC reference with the letter "A" means intraLATA service. See electronic mail from Diane Peters to Bert Weintraub, dated May 10, 2007, and May 14, 2007.